

Senate Chamber, Atlanta, Georgia
Wednesday, January 25, 2006
Eighth Legislative Day

The Senate met pursuant to adjournment at 10:00 a.m. today and was called to order by the President.

Senator Balfour of the 9th reported that the Journal of the previous legislative day had been read and found to be correct.

By unanimous consent, the reading of the Journal was dispensed with.

The Journal was confirmed.

The following message was received from the House through Mr. Rivers, the Clerk thereof:

Mr. President:

The House has passed by the requisite constitutional majority the following Bills of the House:

HB 344. By Representative Cummings of the 16th:

A BILL to be entitled an Act to amend Code Section 47-7-101 of the Official Code of Georgia Annotated, relating to eligibility for retirement benefits under the Georgia Firefighters' Pension Fund, withdrawal of application for benefits before approval, and reemployment, so as to provide that the benefits of a firefighter who returns to service after retirement may exceed his or her previous benefit after he or she has acquired one year's service after such reemployment; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 357. By Representative Cummings of the 16th:

A BILL to be entitled an Act to amend Chapter 7A of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia Class Nine Fire Department Pension Fund, so as to increase the maximum monthly retirement benefit; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 660. By Representatives Cummings of the 16th, Bridges of the 10th and Yates of the 73rd:

A BILL to be entitled an Act to amend Chapter 7 of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia Firefighters' Pension Fund, so as to provide for creditable service in the fund for certain active military duty; to provide for the calculation of creditable service on a monthly basis; to amend Chapter 7A of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia Class Nine Fire Department Pension Fund, so as to provide for creditable service in the fund for certain active military duty; to provide for the calculation of creditable service on a monthly basis; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 749. By Representative Cummings of the 16th:

A BILL to be entitled an Act to amend Chapter 7 of Title 47 of the Official Code of Georgia Annotated, relating to the Georgia Firefighters' Pension Fund, so as to provide for creditable service in the fund for certain active military duty; to provide for the calculation of creditable service on a monthly basis; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

HB 804. By Representatives Ralston of the 7th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 16-10-95 of the Official Code of Georgia Annotated, relating to barratry, so as to repeal said Code section; to repeal conflicting laws; and for other purposes.

HB 901. By Representative Stephens of the 164th:

A BILL to be entitled an Act to provide for a surcharge on fines in the State Court of Bryan County and the Magistrate Court of Bryan County; to provide for use of such sums for the purpose of local juvenile diversion programs; to repeal conflicting laws; and for other purposes.

HB 902. By Representative Stephens of the 164th:

A BILL to be entitled an Act to amend an Act creating the State Court of Bryan County (formerly the City Court of Pembroke), approved January 10, 1938 (Ga. L. 1937-38 Ex. Sess., p. 714), as amended, so as to authorize the court to impose an additional surcharge for each criminal fine imposed;

to specify the uses to which said surcharge may be put; to provide an effective date; to repeal conflicting laws; and for other purposes.

HB 973. By Representatives Willard of the 49th, Lindsey of the 54th, Jones of the 46th, Buckner of the 130th and Day of the 163rd:

A BILL to be entitled an Act to amend Article 2 of Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use of speed detection devices for traffic enforcement purposes, so as to change provisions relating to prohibited use of speed detection devices by county and municipal law enforcement officers in certain places and certain circumstances; to provide that such officers may use such devices under certain additional circumstances; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

HB 1003. By Representatives Talton of the 145th, O'Neal of the 146th, Floyd of the 147th and Ray of the 136th:

A BILL to be entitled an Act to amend an Act entitled "An Act to make provisions for the Magistrate Court of Houston County," approved March 1, 1984 (Ga. L. 1984, p. 3652), as amended, so as to provide for the election of the chief magistrate and magistrates; to provide for procedures; to provide for the filling of vacancies; to provide for the submission of this Act to the United States Department of Justice; to repeal conflicting laws; and for other purposes.

The following Senate legislation was introduced, read the first time and referred to committee:

SB 447. By Senators Goggans of the 7th, Bulloch of the 11th, Kemp of the 46th, Pearson of the 51st, Henson of the 41st and others:

A BILL to be entitled an Act to amend Chapter 8 of Title 2 of the O.C.G.A., the "Georgia Agricultural Commodities Promotion Act," so as to create the Georgia Blueberry Commission; to define certain terms; to provide for membership, appointment, election, terms, and compensation; to provide for powers; to provide for organization; to provide for the receipt, collection, and disbursement of funds; to provide for liability; to provide for marketing orders; to provide for notice and hearing; to provide for publication of a certain report; to provide for the levying and collection of assessments; to provide for the maintenance of records; to provide for compliance; to provide for a penalty; to

provide for applicability of the Georgia Administrative Procedure Act; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Agriculture and Consumer Affairs Committee.

SB 448. By Senators Thomas of the 2nd, Brown of the 26th, Harbison of the 15th, Reed of the 35th, Starr of the 44th and others:

A BILL to be entitled an Act to amend Article 5 of Chapter 4 of Title 46 of the Official Code of Georgia Annotated, known as the "Natural Gas Competition and Deregulation Act," so as to require the Public Service Commission to declare an emergency and regulate the delivery of natural gas to retail customers in this state; to provide for the applicability of certain laws with respect to the Public Service Commission's regulation of the delivery of natural gas to retail customers in this state; to provide for contracts between electing distribution companies and marketers, between marketers and retail customers, between electing distribution companies and the regulated provider, and between the regulated provider and the Public Service Commission or the state; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

SB 449. By Senator Kemp of the 46th:

A BILL to be entitled an Act to amend Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to general provisions for penal institutions, so as to create certain prohibitions on residency of registered sex offenders at institutions of higher education in this state; to provide for a penalty; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 450. By Senators Kemp of the 46th, Wiles of the 37th, Seabaugh of the 28th, Mullis of the 53rd, Whitehead, Sr. of the 24th and others:

A BILL to be entitled an Act to amend Title 15 of the Official Code of Georgia Annotated, relating to courts; Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally; Chapter 5 of Title 36 of the O.C.G.A., relating to organization of county government; and Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem taxation of property, so as to revise the pay structure for certain county officers and

officials; to revise the minimum salary schedules of pay for sheriffs, tax commissioners, clerks of superior court, and judges of probate court; to provide for longevity pay increases for certain members of county governing authorities; to provide for legislative intent; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations (General) Committee.

SB 451. By Senators Kemp of the 46th, Thompson of the 33rd, Hamrick of the 30th, Grant of the 25th, Cagle of the 49th and others:

A BILL to be entitled an Act to amend Article 9 of Chapter 5 of Title 16 of the O.C.G.A., relating to notice of conviction and release from confinement of sex offenders, so as to provide that notice of conviction and release of a person who is required to register as a sexual offender shall be made for offenders sentenced directly to probation or who are newly established residents in a county; to permit publication of such notice in the legal organ of the county in which such person resides based on information available; to amend Article 2 of Chapter 5 of Title 40 of the O.C.G.A., relating to issuance, expiration, and renewal of drivers' licenses, so as to require annual renewal of a driver's license for registered sex offenders; to change certain provisions relating to the expiration and renewal of licenses; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the Judiciary Committee.

SB 452. By Senator Thompson of the 5th:

A BILL to be entitled an Act to amend Part 1 of Article 9 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to sale of petroleum products, so as to require the establishment by the Public Service Commission of an Internet website for gasoline prices; to require that gasoline dealers post prices for gasoline on such website within certain periods of time; to provide for penalties for failing to post such prices and posting incorrect prices; to provide for certain required features of such website; to provide for the establishment of a toll-free number to obtain such information; to provide for enforcement by the Public Service Commission; to provide for the promulgation of rules and regulations; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Regulated Industries and Utilities Committee.

SB 453. By Senators Kemp of the 46th, Williams of the 19th, Goggans of the 7th and Zamarripa of the 36th:

A BILL to be entitled an Act to amend Article 10 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to contracts and purchases by public schools, so as to require the use of biodiesel fuels in certain vehicles operated by local school districts; to amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties and municipal corporations, so as to require the use of biodiesel fuels in certain vehicles operated by local governments; to amend Article 1 of Chapter 19 of Title 50 of the Official Code of Georgia Annotated, relating to purchase and use of motor vehicles by state government, so as to require the use of biodiesel fuels in certain vehicles operated by state government; to repeal conflicting laws; and for other purposes

Referred to the Transportation Committee.

SB 454. By Senators Douglas of the 17th and Kemp of the 46th:

A BILL to be entitled an Act to amend Code Section 40-8-91 of the Official Code of Georgia Annotated, relating to marking and equipment of law enforcement vehicles, so as to require patrol vehicle markings for Georgia State Patrol vehicles and exclude other vehicles used by the Department of Public Safety from the marking requirements; to increase the number of solid color marked vehicles allowed per post; to provide for related matters; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

SR 718. By Senators Henson of the 41st and Weber of the 40th:

A RESOLUTION honoring the life and accomplishments of Stephen J. Schmidt, Sr., and dedicating the Stephen J. Schmidt, Sr., Memorial Highway; and for other purposes.

Referred to the Transportation Committee.

The following House legislation was read the first time and referred to committee:

HB 344. By Representative Cummings of the 16th:

A BILL to be entitled an Act to amend Code Section 47-7-101 of the Official Code of Georgia Annotated, relating to eligibility for retirement benefits under

the Georgia Firefighters' Pension Fund, withdrawal of application for benefits before approval, and reemployment, so as to provide that the benefits of a firefighter who returns to service after retirement may exceed his or her previous benefit after he or she has acquired one year's service after such reemployment; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

Referred to the Retirement Committee.

HB 357. By Representative Cummings of the 16th:

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HB 660. By Representatives Cummings of the 16th, Bridges of the 10th and Yates of the 73rd:

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duty; to provide for the calculation of creditable service on a monthly basis; to provide conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other purposes.

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HB 804. By Representatives Ralston of the 7th and Willard of the 49th:

A BILL to be entitled an Act to amend Code Section 16-10-95 of the Official Code of Georgia Annotated, relating to barratry, so as to repeal said Code section; to repeal conflicting laws; and for other purposes.

Referred to the Special Judiciary Committee.

HB 901. By Representative Stephens of the 164th:

A BILL to be entitled an Act to provide for a surcharge on fines in the State Court of Bryan County and the Magistrate Court of Bryan County; to provide for use of such sums for the purpose of local juvenile diversion programs; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 902. By Representative Stephens of the 164th:

A BILL to be entitled an Act to amend an Act creating the State Court of Bryan County (formerly the City Court of Pembroke), approved January 10, 1938 (Ga. L. 1937-38 Ex. Sess., p. 714), as amended, so as to authorize the court to impose an additional surcharge for each criminal fine imposed; to specify the uses to which said surcharge may be put; to provide an effective date; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

HB 973. By Representatives Willard of the 49th, Lindsey of the 54th, Jones of the 46th, Buckner of the 130th and Day of the 163rd:

A BILL to be entitled an Act to amend Article 2 of Chapter 14 of Title 40 of the Official Code of Georgia Annotated, relating to use of speed detection devices for traffic enforcement purposes, so as to change provisions relating to prohibited use of speed detection devices by county and municipal law enforcement officers in certain places and certain circumstances; to provide that such officers may use such devices under certain additional circumstances;

to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

Referred to the Public Safety and Homeland Security Committee.

HB 1003. By Representatives Talton of the 145th, O'Neal of the 146th, Floyd of the 147th and Ray of the 136th:

A BILL to be entitled an Act to amend an Act entitled "An Act to make provisions for the Magistrate Court of Houston County," approved March 1, 1984 (Ga. L. 1984, p. 3652), as amended, so as to provide for the election of the chief magistrate and magistrates; to provide for procedures; to provide for the filling of vacancies; to provide for the submission of this Act to the United States Department of Justice; to repeal conflicting laws; and for other purposes.

Referred to the State and Local Governmental Operations Committee.

The following committee report was read by the Secretary:

Mr. President:

The Education and Youth Committee has had under consideration the following legislation and has instructed me to report the same back to the Senate with the following recommendation:

SB 390 Do Pass

Respectfully submitted,
Senator Moody of the 56th District, Chairman

The following legislation was read the second time:

HB 543 SB 149

Senator Stoner of the 6th asked unanimous consent that Senator Adelman of the 42nd be excused. The consent was granted, and Senator Adelman was excused.

Senator Jones of the 10th asked unanimous consent that Senator Zamarripa of the 36th be excused. The consent was granted, and Senator Zamarripa was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Smith of the 52nd be excused. The consent was granted, and Senator Smith was excused.

Senator Pearson of the 51st asked unanimous consent that Senator Rogers of the 21st be excused. The consent was granted, and Senator Rogers was excused.

Senator Seay of the 34th asked unanimous consent that Senator Reed of the 35th be excused. The consent was granted, and Senator Reed was excused.

The roll was called and the following Senators answered to their names:

Balfour	Hill,Jack	Starr
Brown	Hill,Judson	Staton
Bulloch	Hooks	Stephens
Butler	Hudgens	Stoner
Cagle	Johnson	Tarver
Carter	Jones	Tate
Chance	Kemp	Thomas,D
Chapman	Me V Bremen	Thomas,R
Douglas	Miles	Thompson,C
Goggans	Moody	Thompson,S
Golden	Mullis	Tolleson
Grant	Pearson	Unterman
Hamrick	Powell	Weber
Harbison	Schaefer	Whitehead
Harp	Seabaugh	Wiles
Heath	Seay	Williams
Henson	Shafer,D	

Not answering were Senators:

Adelman (Excused)	Fort	Reed (Excused)
Rogers (Excused)	Smith (Excused)	Zamarripa (Excused)

Senator Fort of the 39th was off the floor of the Senate when the roll was called and wished to be recorded as present.

The members pledged allegiance to the flag.

Senator Balfour of the 9th introduced the chaplain of the day, Pastor John Colbaugh of Lawrenceville, Georgia, who offered scripture reading and prayer.

The following resolutions were read and adopted:

SR 704. By Senator Thomas of the 2nd:

A RESOLUTION congratulating Reverend James H. Terry on his installation as pastor of Saint Paul Missionary Baptist Church; and for other purposes.

SR 705. By Senator Thomas of the 2nd:

A RESOLUTION remembering and honoring the life of Mrs. Mildred Ruth Dixon Passmore; and for other purposes.

SR 706. By Senator Thomas of the 2nd:

A RESOLUTION commending the senior members of Asbury United Methodist Church and recognizing February 5, 2006, as "Asbury Treasures Day"; and for other purposes.

SR 707. By Senators Miles of the 43rd, Butler of the 55th, Tate of the 38th, Fort of the 39th, Brown of the 26th and others:

A RESOLUTION commending Elisabeth Williams-Omilami and Afemo Omilami, codirectors of Hosea Feed the Hungry and Homeless; and for other purposes.

SR 708. By Senators Starr of the 44th, Douglas of the 17th and Jones of the 10th:

A RESOLUTION honoring Colonel (Retired) Charles Scott, of Jonesboro, in Henry County, Georgia, former military attaché who was taken hostage along with 51 other Americans at the U.S. Embassy in Tehran, Iran, on November 4, 1979, and released 25 years ago on January 20, 1981; and for other purposes.

SR 709. By Senator Williams of the 19th:

A RESOLUTION congratulating Ms. Ruth Hazel Mann on the occasion of her 100th birthday; and for other purposes.

SR 710. By Senator Williams of the 19th:

A RESOLUTION congratulating Mr. and Mrs. Ira Scarborough on 70 years of marriage; and for other purposes.

SR 711. By Senators Williams of the 19th, Johnson of the 1st and Chapman of the 3rd:

A RESOLUTION honoring and remembering the life of Judge Mell Price; and for other purposes.

.SR 712. By Senator Carter of the 13th:

A RESOLUTION commending the Fitzgerald High School Cheerleaders and their coaches for winning the 2005 AA State Championship; and for other purposes.

SR 713. By Senators Hill of the 32nd, Rogers of the 21st and Wiles of the 37th:

A RESOLUTION celebrating the birth of Mackenzie Elise Hullett; and for other purposes.

SR 714. By Senators Hill of the 32nd, Zamarripa of the 36th, Cagle of the 49th and Moody of the 56th:

A RESOLUTION commending Atlanta International School; and for other purposes.

SR 715. By Senators Hill of the 32nd, Kemp of the 46th, Stephens of the 27th and Cagle of the 49th:

A RESOLUTION commending the Bagataway Lacrosse "Team Georgia" High School Boys Lacrosse Team; and for other purposes.

SR 716. By Senators Rogers of the 21st and Stephens of the 27th:

A RESOLUTION commending Christopher Xavier Harris on becoming an Eagle Scout; and for other purposes.

SR 717. By Senators Goggans of the 7th, Hooks of the 14th, Starr of the 44th, Douglas of the 17th, Shafer of the 48th and others:

A RESOLUTION commending Specialist (E4) Camden Ned Pate for his service to the United States; and for other purposes.

SR 719. By Senator Hill of the 32nd:

A RESOLUTION commending Riverwood High School's International Studies Magnet School; and for other purposes.

SR 720. By Senators Smith of the 52nd, Heath of the 31st, Thomas of the 54th, Hamrick of the 30th, Carter of the 13th and others:

A RESOLUTION declaring November 7, 2006, as Take Your Kids to Vote Day in Georgia; and for other purposes.

The President introduced the doctor of the day, Dr. Steven Muller.

The following resolution was read and adopted:

SR 721. By Senators Wiles of the 37th and Hill of the 32nd:

A RESOLUTION recognizing and commending the Kennesaw Youth Council and the Acworth Youth Council; and for other purposes.

Senator Wiles of the 37th recognized representatives of Kennesaw Youth Council and Acworth Youth Council, commended by SR 721.

SENATE RULES CALENDAR
WEDNESDAY, JANUARY 25, 2006
EIGHTH LEGISLATIVE DAY

SR 649 Court of Appeals of Georgia; congratulate on 100th anniversary
(Amendment)(RULES-1st)

SB 382 Child Support; calculations; definitions; appeal process; change provisions
(PF) (JUDY-29th)

Respectfully submitted,

/s/ Balfour of the 9th, Chairman
Senate Rules Committee

Senator Douglas of the 17th asked unanimous consent that Senator Chance of the 16th be excused. The consent was granted, and Senator Chance was excused.

Senator Kemp of the 46th asked unanimous consent that Senator Goggans of the 7th be excused. The consent was granted, and Senator Goggans was excused.

The following legislation was read the third time and put upon its passage:

SR 649. By Senators Johnson of the 1st, Williams of the 19th and Brown of the 26th:

A RESOLUTION congratulating the Court of Appeals of Georgia on the occasion of its 100th anniversary; and for other purposes.

The Senate Rules Committee offered the following amendment:

Amend SR 649 by striking "SENATE" on line 16 of page 1 and inserting in its place:
GENERAL ASSEMBLY OF GEORGIA

On the adoption of the amendment, the yeas were 43, nays 0, and the committee amendment was adopted.

The report of the committee, which was favorable to the adoption of the resolution as amended, was agreed to.

On the adoption of the resolution, a roll call was taken, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
E Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
E Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	E Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the resolution, the yeas were 51, nays 0.

SR 649, having received the requisite constitutional majority, was adopted as amended.

SB 382. By Senators Harp of the 29th and Hill of the 32nd:

A BILL to be entitled an Act to amend Titles 5, 7, and 19 of the O.C.G.A., relating respectively to appeal and error, banking and finance, and domestic relations, so as to change provisions relating to the calculation of child support; to clarify the direct appeal process in certain domestic relations cases; to clarify the calculation of the amount of interest on arrearage of child support; to clarify definitions; to provide guidelines for determining the amount of child support to be paid; to change provisions relating to guidelines for calculating child support; to reorganize Code Section 19-6-15, relating to guidelines for calculating child support, to provide more clarity on the application of such child support; to allow a jury to determine deviations; to provide for related matters; to provide for applicability and an effective date; to repeal conflicting laws; and for other purposes.

Senator Thomas of the 2nd offered the following amendment #1:

Amend SB 382 by striking the number "15" from line 21 of page 27 and inserting in lieu thereof the following:

25

By striking the number "15" from line 30 of page 27 and inserting in lieu thereof the following:

25

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	E Smith
N Balfour	N Hill,Judson	N Starr
Y Brown	N Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	N Stoner
N Cagle	N Jones	Y Tarver
N Carter	N Kemp	Y Tate
N Chance	N Me V Bremen	Thomas,D
N Chapman	Y Miles	Y Thomas,R
N Douglas	N Moody	N Thompson,C
Y Fort	N Mullis	Y Thompson,S

N Goggans	N Pearson	N Tolleson
N Golden	Y Powell	Y Unterman
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
N Harbison	Y Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 16, nays 38, and the Thomas of the 2nd amendment #1 was lost.

Senators Miles of the 43rd, Butler of the 55th and Brown of the 26th offered the following amendment #2:

Amend SB 382 by striking lines 32 through 36 of page 17 and lines 1 through 13 of page 18 and inserting in lieu thereof the following:

(C) **THEORETICAL CHILD SUPPORT ORDERS.** In addition to the adjustments to Gross Income for self-employment taxes provided in subparagraph (A) of this paragraph and for Preexisting Orders provided in subparagraph (B) of this paragraph, credits for either Parent's other Qualified Child living in the Parent's home for whom the Parent owes a legal duty of support may be considered by the Court for the purpose of reducing the Parent's Gross Income. Use of this credit is appropriate when a child support order is entered. Credits may also be appropriate when a child support order is modified to rebut a claim for increased child support brought by the Custodial Parent. To consider a Parent's other Qualified Children for determining the Theoretical Child Support Order, a Parent shall present documentary evidence of the Parent-Child relationship to the Court. Adjustments to income pursuant to this paragraph may be considered in such circumstances in which the failure to consider a Qualified Child would cause substantial hardship to the Parent. However, no credit for a Parent's other Qualified Child shall be granted if such credit will impair the ability of the Custodial Parent to maintain minimally adequate housing, food, and clothing and provide for other basic necessities for the Child being supported by the court order. If the Court, in its discretion, decides to apply the Qualified Child adjustment, the Basic Child Support Obligation of the Parent for the number of other Qualified Children living with such Parent shall be determined based upon that Parent's Gross Income. Except for self-employment taxes paid, no other amounts shall be subtracted from the Parent's Gross Income when calculating a Theoretical Child Support Order under this subparagraph. The Basic Child Support Obligation for such Parent shall be multiplied by 75 percent and the resulting amount shall be subtracted from such Parent's Gross Income and entered on the Child Support Schedule B – Adjusted Income.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	N Smith
Balfour	N Hill,Judson	Y Starr
Y Brown	Y Hooks	N Staton
Y Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tarver
N Carter	N Kemp	Y Tate
N Chance	Y Me V Bremen	N Thomas,D
N Chapman	Y Miles	Y Thomas,R
N Douglas	N Moody	Y Thompson,C
Y Fort	N Mullis	Y Thompson,S
N Goggans	N Pearson	N Tolleson
Y Golden	Y Powell	Y Unterman
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
Y Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 25, nays 30, and the Miles et al. amendment #2 was lost.

Senator Thompson of the 33rd offered the following amendment #3:

Amend SB 382 by striking lines 1 through 3 on page (4) and renumbering Sections accordingly

and by striking beginning on line 21 of page (18) Section G in its entirety ending on line 7 of page (20). Then reassigning numbers accordingly.

Senator Thompson of the 33rd asked unanimous consent that his amendment #3 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Powell of the 23rd offered the following amendment #4 to SB 382:

By inserting a new section immediately following line 22 of page 46 as follows:

“Section 5.1

Said Title is further amended by striking Code Section 19-10-1, relating to abandonment of dependent child, and inserting in lieu thereof the following:

“19-10-1.

(a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter or does not pay child support as ordered by a court for the needs of the child.

(b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony and shall be imprisoned for not less than one nor more than three years, which felony shall not be reducible to a misdemeanor. Further, the court may order the defendant father or mother's picture to be published in the legal organ of the county. The husband and wife shall be competent witnesses in such cases to testify for or against the other.

(c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of 30 days prior to the commencement of prosecution.

(d) In prosecutions under this Code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.

(e) Upon the trial of an accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.

(f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons, including the statistical likelihood of the alleged parent's parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician,

duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:

(1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof. Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs.

(g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child.

(h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction

thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court having jurisdiction thereof at any time before the child or children reach the age of majority, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and conditions as the original suspension. The sentence shall not be considered probated and the defendant shall not be on probation, but the defendant shall again be under a suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a notification, if any, be deemed to change the suspended sentence to a probated sentence."

Senator Powell of the 23rd asked unanimous consent that his amendment #4 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senator Powell of the 23rd offered the following amendment #5 to SB 382:

By inserting a new section immediately following line 22 of page 46 as follows:

"Section 5.1

Said title is further amended by striking Code Section 19-10-1, relating to abandonment of dependent child, and inserting in lieu thereof the following:

“19-10-1.

(a) A child abandoned by its father or mother shall be considered to be in a dependent condition when the father or mother does not furnish sufficient food, clothing, or shelter or does not pay child support as ordered by a court for the needs of the child.

(b) If any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, he or she shall be guilty of a misdemeanor. Moreover, if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, and leaves this state or if any father or mother willfully and voluntarily abandons his or her child, either legitimate or born out of wedlock, leaving it in a dependent condition, after leaving this state, he or she shall be guilty of a felony punishable by imprisonment for not less than one nor more than three years. The felony shall be reducible to a misdemeanor. Any person, upon conviction of the second offense for violating this code section, shall be guilty of a high and aggravated misdemeanor and shall be subject to a fine for not less than \$500.00 nor more than \$1,000.00. Any person, upon conviction of the third offense for violating this Code section, shall be guilty of a felony, and shall be imprisoned for not less than one nor more than three years, and shall be subject to a fine for not less than \$1,000.00 nor more than \$3,000.00, which felony shall not be reducible to a misdemeanor. Any person, upon conviction of the fourth or subsequent offense for violating this Code section, shall be guilty of a felony, shall be imprisoned for not less than three nor more than five years, and shall be subject to a fine for not less than \$1,000.00 nor more than \$5,000.00. The husband and wife shall be competent witnesses in such cases to testify for or against the other.

(c) The offense of abandonment is a continuing offense. Except as provided in subsection (i) of this Code section, former acquittal or conviction of the offense shall not be a bar to further prosecution therefor under this Code section, if it is made to appear that the child in question was in a dependent condition, as defined in this Code section, for a period of 30 days prior to the commencement of prosecution.

(d) In prosecutions under this code section when the child is born out of wedlock, the venue of the offense shall be in the county in which the child and the mother are domiciled at the time of the swearing out of the arrest warrant; but, if the child and the mother are domiciled in different counties, venue shall be in the county in which the child is domiciled.

(e) Upon the trial of the accused father or mother under this Code section, it shall be no defense that the accused father or mother has never supported the child.

(f) In the trial of any abandonment proceeding in which the question of parentage arises, regardless of any presumptions with respect to parentage, the accused father may request a paternity blood test and agree and arrange to pay for same; and in such cases the court before which the matter is brought, upon pretrial motion of the defendant, shall order that the alleged parent, the known natural parent, and the child submit to any blood tests and comparisons which have been developed and adapted for purposes of establishing or disproving parentage and which are reasonably accessible to the alleged parent, the known natural parent, and the child. The results of those blood tests and comparisons,

including the statistical likelihood of the alleged parents parentage, if available, shall be admitted in evidence when offered by a duly qualified, licensed practicing physician, duly qualified immunologist, duly qualified geneticist, or other duly qualified person. Upon receipt of a motion and the entry of an order under this subsection, the court shall proceed as follows:

(1) Where the issue of parentage is to be decided by a jury, where the results of those blood tests and comparisons are not shown to be inconsistent with the results of any other blood tests and comparisons, and where the results of those blood tests and comparisons indicate that the alleged parent cannot be the natural parent of the child, the jury shall be instructed that if they believe that the witness presenting the results testified truthfully as to those results and if they believe that the tests and comparisons were conducted properly, then it will be their duty to decide that the alleged parent is not the natural parent;

(2) The court shall require the defendant requesting the blood tests and comparisons pursuant to this subsection to be initially responsible for any of the expenses thereof. Upon the entry of a verdict incorporating a finding of parentage or nonparentage, the court shall tax the expenses for blood tests and comparisons, in addition to any fees for expert witnesses whose testimonies supported the admissibility thereof, as costs.

(g) In prosecutions under this Code section, when the child is born out of wedlock and the accused father is convicted, the father may be required by the court to pay the reasonable medical expenses paid by or incurred on behalf of the mother due to the birth of the child.

(h) The accused father and the mother of a child born out of wedlock may enter into a written agreement providing for future support of the child by regular periodic payments to the mother until the child reaches the age of 18 years, marries, or becomes self-supporting; provided, however, that the agreement shall not be binding on either party until it has been approved by the court having jurisdiction to try the pending case.

(i) If, during the trial of any person charged with the offense of abandonment as defined in this Code section, the person contends that he or she is not the father or mother of the child alleged to have been abandoned, in a jury trial the trial judge shall charge the jury that if its verdict is for the acquittal of the person and its reason for so finding is that the person is not the father or mother of the child alleged to have been abandoned, then its verdict shall so state. In a trial before the court without the intervention of the jury, if the court renders a verdict of acquittal based on the contention of the person that he or she is not the father or mother of the child alleged to have been abandoned, the trial judge shall so state this fact in his verdict of acquittal. Where the verdict of the jury or the court is for acquittal of a person on the grounds that the person is not the father or mother of the child alleged to have been abandoned, the person cannot thereafter again be tried for the offense of abandoning the child, and the verdict of acquittal shall be a bar to all civil and criminal proceedings attempting to compel the person to support the child.

(j)(1) In a prosecution for and conviction of the offense of abandonment, the trial court may suspend the service of the sentence imposed in the case, upon such terms and conditions as it may prescribe for the support, by the defendant, of the child or children

abandoned during the minority of the child or children. Service of the sentence, when so suspended, shall not begin unless and until ordered by the court having jurisdiction thereof, after a hearing as in cases of revocation or probated sentences, because of the failure or refusal of the defendant to comply with the terms and conditions upon which service of a sentence was suspended.

(2) Service of any sentence suspended in abandonment cases may be ordered by the court having jurisdiction thereof at any time before the child or children reach the age of majority, after a hearing as provided in paragraph (1) of this subsection and a finding by the court that the defendant has failed or refused to comply with the terms and conditions upon which service of the sentence was suspended by the court having jurisdiction thereof.

(3) Notwithstanding any other provisions of law, in abandonment cases where the suspension of sentence has been revoked and the defendant is serving the sentence, the court may thereafter again suspend the service of sentence under the same terms and conditions as the original suspension. The sentence shall not be considered probated and the defendant shall not be on probation, but the defendant shall again be under a suspended sentence. However, the combined time of incarceration of the defendant during the periods of revocation of suspended sentences shall not exceed the maximum period of punishment for the offense.

(4) Notwithstanding any other provision of law to the contrary, the terms and conditions prescribed by the court as to support by the defendant shall be subject to review and modification by the court, upon notice and hearing to the defendant, as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs. The review provided for in this paragraph as to the ability of the defendant to furnish support and as to the adequacy of the present support payments to the child's or children's needs shall not be had in less than two-year intervals and shall authorize the court to increase as well as to decrease the amount of child support to be paid as a term and condition of the suspended sentence. The review as to ability to support and adequacy of support shall not be equivalent to a hearing held in cases of revocation of probated sentences for purposes of service of the suspended sentence; nor shall a modification, if any, be deemed a change in sentence; nor shall a modification, if any, be deemed to change the suspended sentence to a probated sentence."

Senator Powell of the 23rd asked unanimous consent that his amendment #5 be withdrawn. The consent was granted, and the amendment was withdrawn.

Senators Unterman of the 45th, Butler of the 55th, Miles of the 43rd, Thomas of the 2nd, Tate of the 38th and others offered the following amendment #6:

Amend SB 382 by striking the phrase "Parenting Time Units" on line 4 of page 10 and inserting in its place the following:

Days

By striking lines 21 through 35 of page 18, page 19 in its entirety, and lines 1 through 7 of page 20 and inserting in lieu thereof the following:

(g) *Parenting Time Adjustment.*

(1) For purposes of this subsection, the term 'Day' means that a Child spends more than 12 hours of a calendar day with or under the control of a Parent and that Parent expends a reasonable amount of resources on the Child during such time period directly related to the care and supervision of the Child. Partial days of parenting time that are not consistent with this definition shall not be considered a 'Day' under this Code Section. A Child is under the control of a Parent when the Child is in the Parent's home or at school, work related day care, or such activity as the Parent expressly permits.

(2) The Child Support Obligation Table is based upon expenditures for the Child in intact households and therefore there is no consideration for cost associated with court ordered visitation exceeding the standard visitation period with the Noncustodial Parent, which, for purposes of this Table only, typically includes a minimum of every other weekend from Friday through Sunday, two weeks in the summer, and two weeks during holidays throughout the year, for a total of approximately 80 days per calendar year.

(3)(A) If the Noncustodial Parent is ordered more than 120 days of court ordered visitation per calendar year with a Child, the Noncustodial Parent's Basic Support Obligation may be reduced as provided in subparagraph (B) of this paragraph.

(B) Determine the Adjustment Percentage based upon the following schedule:

Number of Days	Adjustment Percentage
121 - 136 Days	10 percent
137 - 151 Days	20 percent
152 - 166 Days	30 percent
167 - 181 Days	40 percent
182 or more Days	50 percent

(C) Multiply the adjustment percentage by the Noncustodial Parent's Basic Child Support Obligation, and the resulting number from this multiplication may be subtracted from the Noncustodial Parent's Basic Child Support Obligation to arrive at the Parenting Time Adjustment upon a showing by the preponderance of the evidence that the Parenting Time Adjustment is consistent with the best interests of the Child.

(D) If there is more than one Child in the case with whom the Noncustodial Parent is ordered more than 120 days of visitation per calendar year, and the Noncustodial Parent is ordered different amounts of visitation time with each Child, then the time the Noncustodial Parent is ordered with each Child shall be averaged to determine the Parenting Time Adjustment.

(E) If the Adjusted Incomes of the Parents are equal and the court ordered visitation with each Parent is equal, neither Parent shall pay any Basic Child Support Obligation; provided, however, that either Parent may be responsible for additional support obligations, including a Parent's pro rata share for Health Insurance, Work Related Child Care Costs, Uninsured Health Care Expenses, and Deviations for Extraordinary Expenses as set forth in subparagraph (i)(2)(I) of this Code section.

(4) Where a Parenting Time Adjustment is ordered and the Noncustodial Parent fails to exercise the court ordered visitation, the court shall have the power to sanction the Noncustodial Parent to the same extent as is provided by law for contempt of the court in any other action or proceeding cognizable by the court. Any proceeding for compliance pursuant to this authority shall be a part of the underlying action, and a motion for such enforcement shall not constitute the filing of a new action or require the payment of a new filing fee.

(5) In accordance with subsection (d) of Code Section 19-11-8, if any action or claim for Parenting Time Adjustment is brought under this subsection, it shall be an action or claim solely between the Custodial Parent and the Noncustodial Parent, and not any third parties, including the Child Support Enforcement Agency.

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	N Hill,Jack	Smith
Y Balfour	N Hill,Judson	Y Starr
Y Brown	Y Hooks	N Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
N Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
N Harp	Y Seabaugh	Y Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 49, nays 6, and the Unterman et al. amendment #6 was adopted.

Senator Seabaugh of the 28th asked unanimous consent that Senator Smith of the 52nd be excused. The consent was granted, and Senator Smith was excused.

Senator Seay of the 34th offered the following amendment #7 to SB 382:

By inserting immediately after the word “Agency.” on line 7 of page 20 the following:

“Where a Parenting Time Adjustment is ordered and the Noncustodial Parent fails to exercise the court ordered visitation, the court shall have the power to sanction the Noncustodial Parent to the same extent as is provided by law for contempt of the court in any other action or proceeding cognizable by the court. Any proceeding for compliance pursuant to this authority shall be a part of the underlying action, and a motion for such enforcement shall not constitute the filing of a new action or require the payment of a new filing fee.”

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

Y Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	Y Starr
Y Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	Y Stoner
Y Cagle	Y Jones	Y Tarver
Y Carter	Y Kemp	Y Tate
Y Chance	Y Me V Bremen	Y Thomas,D
Y Chapman	Miles	Y Thomas,R
Y Douglas	Y Moody	Y Thompson,C
Y Fort	Y Mullis	Y Thompson,S
Y Goggans	Y Pearson	Y Tolleson
Y Golden	Y Powell	Y Unterman
Y Grant	Y Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	Y Seay	Y Zamarripa
Y Henson	Y Shafer,D	

On the adoption of the amendment, the yeas were 54, nays 0, and the Seay amendment #7 was adopted.

The following communication was received by the Secretary:

Senator Steen Miles
 District 43
 325-B Coverdell Legislative Office Building
 Atlanta, GA 30334

Committees:

Banking and Financial Institutions
 Public Safety and Homeland Security
 Special Judiciary
 State Institutions and Property

The State Senate
 Atlanta, Georgia 30334

The button on my roll call machine malfunctioned. Please record a yes vote on Amendment #7.

/s/ Steen Miles

Senator Thompson of the 33rd offered the following amendment #8:

Amend SB 382 by striking beginning on line 21 of page (18) Section G in its entirety, and inserting “(g) Reserved.”

On the adoption of the amendment, the President ordered a roll call, and the vote was as follows:

N Adelman	N Hill,Jack	E Smith
N Balfour	N Hill,Judson	Y Starr
Y Brown	Y Hooks	N Staton
N Bulloch	N Hudgens	N Stephens
Y Butler	N Johnson	Y Stoner
N Cagle	Y Jones	Y Tarver
N Carter	N Kemp	Y Tate
N Chance	Y Me V Bremen	N Thomas,D
Y Chapman	Y Miles	Y Thomas,R
N Douglas	N Moody	Y Thompson,C
Y Fort	N Mullis	Y Thompson,S
N Goggans	N Pearson	N Tolleson
Y Golden	Y Powell	N Unterman
N Grant	Y Reed	N Weber
N Hamrick	N Rogers	N Whitehead
N Harbison	N Schaefer	N Wiles
N Harp	N Seabaugh	N Williams
N Heath	Y Seay	Y Zamarripa
Y Henson	N Shafer,D	

On the adoption of the amendment, the yeas were 21, nays 34, and the Thompson of the 33rd amendment #8 was lost.

The report of the committee, which was favorable to the passage of the bill, was agreed to as amended.

On the passage of the bill, a roll call was taken, and the vote was as follows:

N Adelman	Y Hill,Jack	E Smith
Y Balfour	Y Hill,Judson	N Starr
N Brown	Y Hooks	Y Staton
Y Bulloch	Y Hudgens	Y Stephens
Y Butler	Y Johnson	N Stoner
Y Cagle	N Jones	N Tarver
Y Carter	Y Kemp	N Tate
Y Chance	N Me V Bremen	Y Thomas,D
Y Chapman	Y Miles	N Thomas,R
Y Douglas	Y Moody	N Thompson,C
N Fort	Y Mullis	N Thompson,S
Y Goggans	Y Pearson	Y Tolleson
N Golden	Y Powell	Y Unterman
Y Grant	N Reed	Y Weber
Y Hamrick	Y Rogers	Y Whitehead
Y Harbison	Y Schaefer	Y Wiles
Y Harp	Y Seabaugh	Y Williams
Y Heath	N Seay	N Zamarripa
N Henson	Y Shafer,D	

On the passage of the bill, the yeas were 38, nays 17.

SB 382, having received the requisite constitutional majority, was passed as amended.

Senator Seabaugh of the 28th introduced Congressman Lynn Westmoreland. Congressman Westmoreland addressed the Senate briefly.

Senator Williams of the 19th moved that upon the dissolution of the Joint Session the Senate stand adjourned until 10:00 a.m. tomorrow, and the President announced the motion prevailed at 12:56 p.m.

The hour for convening the Joint Session of the Senate and House having arrived, the President, accompanied by the Secretary and Senators, proceeded to the Hall of the House of Representatives, and the Joint Session, called for the purpose of hearing a message by Honorable Leah Ward Sears, Chief Justice of the Supreme Court of Georgia,

was called to order by the Speaker of the House. HR 1107, authorizing the Joint Session of the Senate and House, was read by the Clerk of the House.

Honorable Leah Ward Sears, Chief Justice of the Supreme Court of Georgia, addressed the Joint Session of the Senate and the House of Representatives as follows:

Speaker Richardson, Lieutenant Governor Taylor, President Pro Tem Johnson, Representative Burkhalter, distinguished members of the General Assembly, other special guests including my mother, Onnye Jean Sears, who is here with me today, and my beloved husband, Haskell Ward of Griffin. My fellow Georgians.

I am honored to address this distinguished body for the first time. I appear before you as a representative of the judiciary, many of whom are present today.

I'd like to take a minute to thank my colleagues who have been so supportive during my first few months as chief justice. Thank you Presiding Justice Carol Hunstein, Former Chief Justice Robert Benham, and Justices Carley, Thompson, Hines and Melton, our newest justice.

This afternoon I stand before you as the Chief Justice of the state's court of last resort. But I started my judicial career in 1982 in a court of first resort, the Atlanta Traffic Court. In that court I worked with 7 other municipal court judges to dispose of more than 300 cases a day in one of the busiest courts in the state. In 1988, I became a superior court judge. There I learned a great deal about the responsibility of a judge from some of the best trial judges in the country. In 1992 I moved to the Supreme Court of this great state where I have served for the last 14 years.

During the 24 years that I have been a judge, I have had the opportunity to learn about what you as legislators do. I understand and respect the essential role you play in our state government. You are the makers of our laws and the guardians of the people's purse. There is no more important mission in state government. As I look around the chamber of this General Assembly, I see many friends of long-standing –both Republican and Democrat. Your assistance to the judiciary over the years has been invaluable. You have also helped to put me at ease every time my duties as Chief Justice have brought me to this building. I thank each and every one of you for your courtesy and your friendship.

No review of the past year can ignore the violent events that took place down the street during the final days of the legislative session last year. On March 11, 2005, the state, in fact the nation, was shocked by the horrific incident in the Fulton County Courthouse. On March 11th Judge Rowland Barnes, court reporter Julie Brandau and deputy Hoyt Teasley were killed. This attack shattered our complacency and shook us to the core. It has had a profound impact on the judicial branch of government in Georgia. In addition to testing our resolve, the incident underscored the need to improve safety and security

for judges and judicial employees, both within and outside courthouses. Hard working, decent, court officials, litigants and their families, should never face violent attack. We look forward to working with you to find solutions for the security problems we face. And we pledge never to forget the dedication and sacrifice of our fallen colleagues.

In spite of the tragic events of March 11, I am pleased to report that, today, the state of Georgia's judiciary is sound, strong and working well to meet the challenges that face us. This is due in large part to the efforts of the justices of the Supreme Court, the judges of the Court of Appeals, ably lead by Chief Judge Jack Ruffin, and hundreds of trial judges throughout the state. I also have to acknowledge the thousands of judicial employees who make it possible for us to do our jobs.

Appellate Courts

I want first to mention Georgia's appellate courts because the Supreme Court and the Court of Appeals are both very busy and highly productive. On average, the Supreme Court docket 2000 cases each year, while the Court of Appeals docket about 3200 cases. In addition to having very large caseloads, both Courts rank 10th in the nation in the number of written opinions they issue.

Judicial Council of Georgia

The Judicial Council has had an outstanding year. Representatives from every facet of the state judiciary are working in harmony on many projects designed to improve our judicial system.

Administrative Office of the Courts

The Administrative Office of the Courts, which continues to undergo needed reorganization and consolidation, is meeting its mandate of providing a variety of services to the judiciary. That agency is also assisting courts at all levels in managing their caseloads effectively and efficiently.

During the past year, the AOC staffed the Child Support Guidelines Commission, which was charged with the tremendous task of implementing the child support legislation passed by you last year. The AOC also embarked on a court e-filing initiative, collaborating with other agencies and the clerks of court in Washington, Bibb, and Walker counties, in addition to the Supreme Court. Finally, the AOC has taken great strides in meeting federal mandates for electronic submission of traffic citations. In 2003 only 25% of citations were submitted to the Department of Driver Services electronically. In 2005 that percentage had risen to 72%.

Accountability Courts

In recent years Georgia has experimented with Accountability courts. These courts have been called the most significant criminal justice initiatives in the last century.

Our drug courts have been a resounding success thanks in large part to the work of Judge George Kreeger of Cobb County. Judge Kreeger is chair of the Judicial Council's Standing Committee on Drug Courts. Alcohol and drug abuse figure prominently in the majority of our criminal cases in Georgia. We currently have 39 operational drug courts in Georgia; but our goal is to have drug courts in all 49 Judicial Circuits. These courts are holding offenders accountable, saving the state and local governments money, changing lives, and reuniting families.

Judge Kent Lawrence of Athens-Clarke County, with the assistance of the Administrative Office of the Courts and the Governor's Office of Highway Safety, has pioneered the development of a DUI Court Demonstration Project. This court has become the National Model for DUI Courts. Judge Lawrence and the other judges who have embarked on this new effort are to be applauded for the success of the programs. There are now 7 DUI Court programs operating and another several more will begin within the next few months.

Also, as counties seek ways to respond to the increasing numbers of people with mental illness entering the criminal justice system, mental health courts are emerging in Georgia. Georgia now has three such courts. One was begun by Judge Stephen Goss in Albany. The second mental health court was founded by Judge John Allen in Muscogee County. And Judge Kathleen Gosselin has spearheaded the implementation of a third mental health court in Gainesville. These courts treat adult criminal defendants with mental illness and divert them from jail into treatment programs while ensuring public safety.

The Fulton County Family Court has also proved to be very effective. Improving the delivery of services to families and children has long been a priority of the judicial council and mine. Since taking office as Chief Justice, I have become keenly aware of the toll the growing dysfunction of Georgia's families is having on our legal system. Indeed, civil cases involving domestic relations problems now outnumber all felony and misdemeanor cases combined. And two-thirds of the young people convicted of major felonies from 1970 to 1995 came from single or no parent homes. One of the ways that we have chosen to address this problem was to institute the Family Court pilot project. That project is designed to consolidate multiple domestic relations cases involving the same family under one judge so that the decision-making process is consistent.

But I think it is also important, in fact it is critical, for us to begin to deal with the legal crisis created by the disintegration of the family. We must restore the importance of marriage and family as the foundation of society. A large and growing body of social science research shows that the health and well-being of our children are strongly linked to the health of marriage. So devising strategies for Georgians to get and stay married to the people with whom they have children must be an important aim of government and the courts.

Other goals for children in 2006 include improving legal representation in juvenile courts, seeking ways to expedite appeals for child deprivation cases, and increasing the education and dialogue about how important placement stability is for children in foster care.

Judicial Independence

I would be remiss if I did not talk for a minute about the role of judges, given the present climate in our nation regarding the judiciary and our courts. The judicial branch is in the business of providing justice, and justice is not, and has never been, a matter of politics. As our chief justice said last year, justice is a right guaranteed by the Constitutions of the United States and the State of Georgia. Although it may be appropriate for lawmakers like you to consider public opinion and the views of special interest groups when drafting laws, it is never appropriate for judges to do so when deciding cases. In this respect, the judiciary is very different from the other two branches of government.

Advancements in technology and communication have made the judiciary and its operations far more transparent and subject to much greater public scrutiny than in the past. Controversial issues garner more attention and provoke comment more quickly than when the founders envisioned our tripartite form of government. This is a good thing. Informed discourse and debate are the hallmarks of American democracy. But it is not the role of a judge to try cases in the court of public opinion. Rather, it is the job of a judge to be a fair and impartial arbiter of conflict. It is the job of a judge to interpret the laws that you make in light of sound legal reasoning and well established precedent, not based on personal feelings, politics or opinion polls. Finally, it is the job of a judge to protect the rights of all people, without regard to race, creed, or social and economic status. And the judges I have known in my 25 years on the bench are to be commended for working hard to do just that everyday.

The judicial, executive and legislative branches of government must work together to address the modern popular misconceptions of the courts. Our democracy will continue to thrive only as long as our courts do. We must protect our courts, ladies and gentlemen, or our courts will never be able to protect us.

Judicial Budget

With regard to our budget requests, I will be brief. As Alexander Hamilton observed 200 years ago, “the judiciary has the power neither of the sword nor of the purse, but merely judgment.” As the body to whom the power of the purse has been given, I only ask that you consider the essential role you play in preserving and, indeed, improving our court system. In recent years, the judiciary has consistently been limited to an appropriation of less than 1% of the state’s general fund budget. Yet we play a vital although not easily recognized role in the state’s economy.

When an industry considers relocating to Georgia, our extensive transportation network, good schools, skilled work force and fair taxes are all points in our favor. But no less important is our strong, professional and efficient court system in which that industry can be assured of receiving fair and consistent treatment in legal disputes both for itself and its employees.

Our goal is the same as yours and the Governor's: we want to provide excellent customer service to the citizens of Georgia. In order to meet that goal, we must have adequate resources. The most common interactions most people have with their state governments are in trying to get a driver's license and going to court for some reason or another. We must dedicate as many resources to improving customer service and efficiency within the courts as we do for other state services.

Superior Court Judgeships

I do want to mention another matter affecting the judicial branch and its budget. The Judicial Council has recommended the creation of 10 additional superior court judgeships in those counties that are experiencing a rapid increase in population and an ever increasing caseload in both the criminal and civil dockets. I urge you to give this recommendation your favorable consideration as well. The Council recommends new judgeships only after careful study based on its annual workload assessment of Georgia's 49 superior court circuits. Delay in creating these judgeships means that the people of the Houston, Paulding and Southern judicial circuits, to name only a few, do not have an adequate number of judges today to hear a growing volume of cases. Georgia is fortunate to have dedicated and talented superior court judges, but we need more than talent and dedication if we are to address the demands of a growing state population. People generate litigation. More people generate more litigation. I ask that you strongly consider funding these 10 new judgeships.

Indigent Defense

Before I close, I want to take a moment and address the needs of the statewide public defender system in Georgia, which you created during the 2003 session and funded in the 2005 fiscal year budget. That system, I am pleased to report, is off to a great start. As you know, there are three essential parts of the criminal justice system, the courts (led by judges), the prosecutors and the defenders. As such, the criminal justice system is like a three-legged stool. Now, we all know that a two-legged stool won't stand up. And that's what we had in Georgia for a long time, a two-legged stool. But, thankfully, with the creation of a statewide indigent defense system, we now have all three components on a firm foundation. All I ask of you at this time is that you please continue your commitment to fund the system you created two years ago.

This morning I talked with you about the importance of the judiciary remaining fair, impartial and independent. I want to end by acknowledging our interdependence.

Although each branch of government is separate, we are also connected in that we share a mutual quest for excellence in government.

My good friends, we are all partners in this great enterprise of representative government and are all traveling on the same path. Our roles and responsibilities are different, but our goal is the same--to serve the people of Georgia to the best of our abilities.

Thank you for your courtesy in inviting me in today, for your attention to my remarks, and for your unfailing devotion to the people of Georgia. God bless you, God bless Georgia, and God bless America.

Senator Williams of the 19th moved that the Joint Session be hereby dissolved.

The motion prevailed, and the Speaker of the House announced the Joint Session dissolved.

Pursuant to the provisions of a previously adopted motion, the Senate stood adjourned until 10:00 a.m. Thursday, January 26, 2006.